

REMARKS

Initially applicant wishes to express appreciation to the Examiner for the indication that this application includes allowable subject matter. However, in view of the following comments, and applicant's discussion of the prior art which has been cited hereagainst, it is respectfully submitted that all of the claims in this application are directed to patentable subject matter, and reconsideration and allowance of each of these claims is therefore respectfully solicited.

Claims 1, 7, 9-11, 20, 22, 24, 29 and 30 have been rejected as being anticipated by Focht. Referring to FIGS. 1 and 2 of Focht, the Examiner contends that this reference teaches a valve for use with a pressurized receptacle containing a fluid in which the valve comprises a housing 4,7 having an axis and including an orifice 31 for dispensing fluid, as well as a shutter member 5 disposed in the housing and movable along the axis under the action of gravity between the closed position shown in FIG. 2, closing the orifice when the valve is in one orientation, and the dispensing position shown in FIG.1, in which the shutter member releases the orifice, and at least one surface; namely, the inner wall of housing tube 40, which is said to be adapted to prevent movement of the shutter member parallel to the axis over at least a portion of a path between the closed position and the dispensing position. This rejection is respectfully traversed for the reasons set forth hereinafter.

Claim 1 specifically defines the claimed valve as comprising a housing having an axis, then states that the shutter member is movable along that axis under the action of gravity. Furthermore, this claim also requires that the at least one surface adapted to prevent movement of the shutter member is parallel to that axis over at least a portion of the path between the closed and dispensing positions. The "axis" is thus defined by the housing itself. Indeed, the specification points out that the axis of the shutter member housing may be

rectilinear or otherwise (page 5, paragraph 24). This is obviously the case, since, for example, in the embodiment shown in FIG. 7 the housing containing the shutter member is the dip tube affixed to the valve body, which as shown in FIG. 2 is not linear, but in fact is arcuate, much like the eduction tube 4 shown in Focht.

Turning to the Focht reference itself, this patent is directed to valves fitted on aerosol pressure containers employed for spraying various products into the atmosphere. Focht specifically concludes an eduction tube 4 connected to the valve body 7. Within the eduction tube 4 is contained a ball 5 maintained in a stopped position by locking pin 20. It is clear beyond question that ball 5 has an unimpeded path in eduction tube 4, from its rest position against locking pin 20 until it reaches and shuts off conduit 31 as shown in FIG. 2. The ball 5 can move freely along the axis of eduction tube 4, and there is no discussion and/or structure whatsoever set forth in Focht with respect to any surface or element which is adapted to prevent movement of the claimed shutter member parallel to that axis over any portion of the path between the closed position and the dispensing position thereof. Again, movement of the ball 5 is uninhibited between these two positions, and the surface of the eduction tube 4 cannot be equated with any such surface since whether the eduction tube is rectilinear or not, ball 5 follows the axis of the eduction tube precisely along its path, and is not inhibited or moved from that path by any means therebetween. It is not only clear that claims such as claims 1 and 30 are not anticipated by Focht, but indeed there is no reference or suggestion to include any such means in the product disclosed in Focht, and there would thus be no basis for contending that it would be obvious to do so. It is therefore submitted that these claims are fully patentable over Focht.

Claims 2 and 8 have been rejected as being unpatentable over Focht in view of Koukal under 35 U.S.C. § 103(a). After admitting that Focht does not teach the surface (inside of tube 4) adapted to impart helical motion

to the shutter member 5, Koukal is said to teach in FIG. 4 and page 2, lines 15-22 providing a separate member 25 to impart helical motion to a shutter member 26 to retard motion thereof. The Examiner thus concludes that it would be obvious to incorporate the separate member 25 of Koukal to impart helical motion to a shutter member 5 to retard motion thereto as taught by Koukal. This rejection is respectfully traversed in view of the above arguments and for the reasons set forth hereinafter.

Applicant would, of course, repeat all of the above-noted contentions with respect to the clear deficiencies of the Focht reference. As for Koukal, the Koukal patent is, as contrasted even to Focht, merely directed to a combined bottle stopper and measuring device for pouring liquid from bottle cap B. Simply put, upon inversion into the configuration shown in FIG. 2, the ball valve member 21 moves downwardly, permitting a predetermined amount of liquid to exit from the spout 14 until the ball valve member 21 reaches a position against valve seat 19. FIGS. 4 and 5 are said to show various spiral tracks for regulating movement of the ball valve member itself. There is no reason or suggestion whatsoever to combine the teachings of Koukal with Focht. There is no suggestion that there would, in fact, be any reason to apply these teachings to the disclosure of Focht, in an environment in an aerosol pressure container which is entirely different from that of Koukal. It is apparent that the Examiner's position is based solely upon hindsight reconstruction, and without a suggestion for applying the teachings of Koukal to those of Focht, there is simply no basis for contending that it would be obvious to make this combination. Indeed, to some extent the teachings of Koukal are antithetical to those of Focht, in which, as discussed above, the entire disclosure allows for uninhibited movement of the metering ball 5 within the eduction tube 4 thereof. It is

therefore respectfully submitted that these claims too are fully patentable over this combination of references.

Claim 23 has been rejected as being unpatentable over Soffer *et al.* in view of Focht under 35 U.S.C. § 103(a). Applicant would once again repeat all of his above-noted contentions with respect to the deficiencies of Focht with respect to claim 1. As for claim 23, the actuating means of the present invention, such as the push button 6 is actuated by being rocked. Thus, the Examiner's reference to Soffer *et al.* is not believed to be at all helpful in overcoming the clear deficiencies of the Focht reference. Soffer *et al.* is said to merely teach a rocking actuated valve, but applicant has not contended that he is the first to invent such a valve, but only claims same in combination with the elements of claim 1, for example. It is therefore clear that the combination of Soffer *et al.* with Focht does not render claims such as claim 23 obvious, and withdrawal of this rejection is also respectfully solicited.

For all of the above-noted reasons, it is respectfully submitted that the claims in this application are clearly in condition for allowance, and such action is therefore respectfully solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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